

REMARKS

This Amendment is in response to the Office Action mailed April 13, 2005, having a three (3) month shortened statutory period for reply.

Claims 1, 12, and 14-23 are pending in the application.

Claims 16-21 have been amended to correct a typographical error (amendment changes comprises to comprises).

Claim 21 has been amended to delete two of the listed compounds.

Applicants request consideration and entry into the record of the following amendments and remarks.

Rejection Alleging Obviousness-Type Double Patenting

Claims 12 and 23 are provisionally rejected for alleged obviousness-type double patenting in view of claim 9 of copending application number 10/018,900 (issued as US 6,911,442 B1). The Examiner alleges that the "copending application teaches piperidinylquinoline compounds derived from formula I, and the present application teaches pharmaceutical compositions that contain piperidinylquinoline compounds derived from formula I." Applicants believe the Examiner's assertion to be in error, and respectfully draw the Examiner's attention to the fact that the cited copending application does not teach or suggest the piperidinyl-quinolines of the present application as alleged, but rather is directed to compounds which are piperizinyllinked, for which there is no overlap with the present application subject matter. In light of the above, Applicants respectfully request that the double-patenting rejection be withdrawn.

Rejection Under 35 USC § 112, 1st Paragraph

The examiner has rejected claims 1, 14-21 for allegedly failing to comply with 35 USC § 112, 1st Paragraph. Specifically, the Examiner asserts that the specification enables only what it specifically discloses in terms of the bacteria the compounds have been tested against. Applicants do not agree with the Examiner's assertion, noting that one of skill in the art recognizes that testing against a standard panel of gram negative and positive bacteria is routine, and the results can be generally extrapolated to indicate a broader claim of antibacterial usefulness. Nevertheless, and solely for the sake of facilitating the efficient prosecution of the subject claims, Applicants have amended the subject claims to specifically recite the

class of organisms referred to in the specification on page 41, lines 2-4 (*S.aureus*, *E.faecalis*, *M.catarrhalis*, and *S.pneumoniae*). Applicants believe the discussion above fully addresses the Examiner's 35 USC § 112, 1st Paragraph rejection and respectfully request that this rejection be withdrawn.

Rejections Under 35 USC § 112, 2nd Paragraph

The Examiner has rejected claims 14 and 23 for improperly reciting the limitation "formula (Ia)" for which the Examiner alleges there is no antecedent basis. Solely in order to expedite the prosecution of claims 14 and 23, Applicants have amended claims 14 and 23 by canceling reference to "formula (Ia)" and have defined the claim limitations solely in relation to formula (I) of claim 1.

The Examiner has rejected claim 22 under 35 USC § 112, 2nd Paragraph for allegedly being "indefinite and vague" for failing to disclose the integer value of "n" of formula (V). Applicants have reviewed the rejected portion of claim 22 and cannot find evidence for the Examiner's contention. For further clarifications, Applicants produce below the definitions for, *inter alia*, the value n as referred to for formula (V) in claim 22 (emphasis added):

"wherein Z¹, Z², Z³, Z⁴ and Z⁵, m, n, R¹, R², R³ and R⁴ are as defined in formula (I)"

And from formula (I) as defined in claim 1 (emphasis added):

"n is 0, 1 or 2".

For the above reasons, Applicants respectfully request that the rejections Under 35 USC § 112, 2nd Paragraph be withdrawn.

Conclusion

In view of the above comments, Applicants believe that the pending claims of the present application are in condition for allowance and earnestly solicit the same.

If any additional fees or charges are required, authorization is hereby granted to charge any necessary fees to Deposit Account No. 19-2570.

U.S. Serial No.: 09/889,820
Group Art Unit: 1614

Should the Examiner have any questions or otherwise wish to discuss any aspect of this case, the Examiner is encouraged to contact the undersigned attorney at the number listed below.

Respectfully submitted,

A handwritten signature in cursive script, reading "Chris P. Miller", written over a horizontal line.

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